



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 70-00

1 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 31 January 1962 at the age of 17. Your record reflects that on 3 July 1962 you were convicted by civil authorities of two specifications of larceny and larceny of a motor vehicle. You were sentenced to an indeterminate term in a reformatory but the sentence was later suspended. On 15 August 1962 you were convicted by special court-martial (SPCM) of two periods of unauthorized absence totalling 28 days and sentenced to confinement at hard labor for four months, reduction to paygrade E-1, and a \$120 forfeiture of pay. On 27 July 1962 you were notified of pending administrative separation action by reason of unfitness. At this time you waived your rights to consult with legal counsel and to submit a statement in rebuttal to the separation. Subsequently, your commanding officer was directed to issue you an undesirable discharge. The discharge authority also directed your commanding officer to hold the discharge in abeyance and to place you in a probationary status for a year. Approximately a month later, on 16 October 1962, you were convicted by summary court-martial (SCM) of rioting and sentenced to confinement at hard labor for

10 days and \$20 forfeiture of pay. However, the probationary period was not terminated and you completed probation without further incident.

Your record further reflects that on 27 February and again on 7 March 1964 you received nonjudicial punishment (NJP) for dereliction in the performance of your duties as a stern sentry and violation of a lawful general regulation. Shortly thereafter, on 27 March 1964, you were convicted by SCM of a three day period of unauthorized absence (UA). You were sentenced to restriction and hard labor for 30 days, forfeitures totalling \$60, and reduction to paygrade E-1.

On 11 May 1964 you were again notified of pending administrative separation action by reason of unfitness because of your uncooperative attitude, failure to respond to counselling, and unwillingness to conform to military discipline. At this time you waived your rights to consult with legal counsel and to submit a statement in rebuttal to the separation. On 14 May 1964 the discharge authority directed your commanding officer to issue you an undesirable discharge and on 3 June 1964 you were so discharged.

The Board, in its review of your entire record and application considered all mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your frequent misconduct in both the military and civilian communities. Given all the circumstances of your case the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director